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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,237	01/22/2001	Ronald P. Doyle	RSW9-2000-0156-US1	1467

7590 04/08/2005

Esther H. Chong, Esquire
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

EXAMINER

VU, THONG H

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,237

Applicant(s)

DOYLE, RONALD P.

Examiner

Thong H Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-19,21-26,28-35 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-19,21-26,28-35 and 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 1,3-11,13-19,21-26,28-35,37-42 are pending.
2. Applicant's arguments with respect to claims 1,3-11,13-19,21-26,28-35,37-42 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-42 are rejected under the judicially created doctrine of double patenting over claims 1-51 of U. S. Patent No. 6,757,708 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

(Patent '708, claim 18) A method of caching dynamically generated content, comprising steps of:

setting input properties of an object using input data values;

executing a method of the object, after setting the input properties, thereby setting output properties of the object; and

caching the object in a cache after executing the method and setting the output properties, wherein the input properties and the input data values are used to create a key to identify the object in the cache, thereby automatically distinguishing among versions of the object which result from executing the method different input data values.

(claim 32) receiving a request for output properties of a particular object;

creating a key for the particular object using the input properties and the input data values which are applicable for those input properties when the request is received;

using the key created for the particular object to determine whether the particular object is already available in the cache, and if so, returning, to an issuer of the request, the output properties from the cached particular object.

(claim 17) value pairs are separated from one another with appropriate separators (i.e.: tags).

(Application, claim 11) A method for processing a content request using a cache of a servicing device in a computing environment, each of a plurality of cached contents in the cache associated with resource information corresponding to a level of resources used to create that cached content, the method comprising the steps of:

receiving by the servicing device the content request;

searching the cache of the servicing device for the requested content;

creating the requested content if the requested content is not available from the cache based on results of the searching step, the created content including resource information corresponding to a level of resources used to create that content;

attempting to cache the created content based on the resource information of the created content and the resource information of the cached contents; and

outputting by the servicing device the requested content.

(claim 13) the generation information for each content is associated with that content using at least one tag.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2,4-12,14-18,20-28,30-36,38-42 are rejected under 35 U.S.C. § 102(e) as being anticipated by Stanbach, Jr. et al [Stanbach 6,449,657 B2].

5. As per claim 11, Stanbach discloses a method for processing a content request using a cache of a servicing device (i.e.: server) in a computing environment, each of a plurality of cached contents in the cache associated with resource information corresponding to a level of resources used to create that cached content, the method comprising the steps of:

receiving by the servicing device the content request [Standbach, client request, col 2 line 23; user request, col 2 line 63; web client , HTTP request, col 23 lines 10-28];

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searching the cache of the servicing device for the requested content [Stanbach, database search, col 15 lines 35-60];

creating the requested content if the requested content is not available from the cache based on results of the searching step [Stanbach, if no known format type found in the database, col 14 lines 31-47], the created content including creation cost (i.e.: fee) information corresponding to a level of resources used to create that content [Stanbach, an insertion fee based upon the content of advertisement table in database, col 14 line 63-col 15 line 12];

attempting to cache the created content based on the resource information of the created content and the creation cost information of the cached contents [Stanbach, a report is generated, col 15 lines 1-12; an insertion fee based upon the content of advertisement table in database, col 14 line 63-col 15 line 12]; and

outputting by the servicing device the requested content [Stanbach, delivering message to a remote system, col 15 lines 13-26].

6. As per claim 13, Stanbach discloses the creation cost information for each content is associated with that content using at least one tag [Stanbach, HTML page includes HTML tags, col 17 lines 3-50].

7. As per claim 14, Stanbach discloses the plurality of contents represent computer page information [Stanbach, HTML, col 17 lines 3-50].

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8. As per claim 15, Stanbach discloses an access time associated with that content, an access frequency associated with that content, and a generation time duration associated with the generation of that content [Stanbach, period of time, col 12 line 1].

9. As per claim 16, Stanbach discloses receiving by a second servicing device (i.e.: proxy server) the requested content output from the outputting step; determining whether to cache said received content in a second cache of the second servicing device based on the creation cost information associated with said received content [Standbach, web cache manager, col 17 lines 3-50; proxy, col 2 lines 67; cost weight, fee based upon the contents, col 14 lines 63-col 15 line 12]; and returning to a user said received content according to the content request [Stanbach, delivering message to a remote system, col 15 lines 13-26].

10. As per claim 17, Stanbach discloses the first servicing device is an application server in a communications network, and the second servicing device is a proxy server in the communications network [Stanbach, proxy, col 2 lines 67].

11. As per claim 39, Stanbach discloses the second computer-readable program code means includes third computer-readable program code means for storing a new content in the cache if the cache is not full [Standbach, new advertisement matching that key word is added to the database, col 14 lines 1-16; web cache manager, col 17 lines 3-50]; fourth computer-readable program code means for comparing generation

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cost information associated with the new content with the generation cost information associated with each of the plurality of cached contents [Standbach, web cache manager, col 17 lines 3-50; proxy, col 2 lines 67; cost weight, fee based upon the contents, col 14 lines 63-col 15 line 12], if the cache is full [Standbach, updates are propagated, col 18 lines 39-56; monitors the database for updated information, col 22 lines 58-65. It was clearly that updated data replaced the old data by the new data if the cache was full]; and fifth computer-readable program code means for replacing one of the plurality of cached contents with the new content based on the results of said comparison [Standbach, updates are propagated, col 18 lines 39-56; monitors the database for updated information, col 22 lines 58-65].

12. Claims 1,4-10 and 18,19,21-26,28-35,37-42 contain the similar limitations set forth of method claims 11,13-17. Therefore, claims 1,4-10 and 18,19,21-26,28-35,37-42 are rejected for the similar rationale set forth in claims 11,13-17.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Patent Examiner
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